IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 14935 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

MUKBADHIR VIDYALAYA

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 14935 of 2004

MR PREMAL R JOSHI for Petitioner No. 1

MR L B DABHI AGP for Respondent No. 1

NOTICE SERVED BY DS for Respondent No. 2-3

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 15/12/2004

ORAL JUDGEMENT

1. RULE. Mr.L B Dabhi learned AGP appears and waives service of rule on behalf of the respondents. With the consent of learned counsel for the parties, the matter is finally heard today.

2. The petitioner by way of this petition has challenged the order dated 23/07/2004 passed by the Director of Social Defence, respondent no.2 herein,

whereby the recognition of the petitioner Institution was withdrawn and the order dated 08/10/2004 passed in Appeal by the State Government, respondent no.1 herein, whereby the order passed by respondent no.2 herein was confirmed.

3. The petitioner Institution is run and managed by Jay Shri Shikshan Sangathan Trust registered under the provisions of the Bombay Public Trusts Act. The said Trust is running an Institution for disabled persons and has been recognized by the State Government as an Institution engaged in the welfare of such persons. In the year 2001, the respondent authority visited the petitioner Institution and prepared its report and forwarded the same to the higher Officers along with its opinion. However, the said proposals were not considered by the respondent State Government on the ground that there were several other proposals pending with the State Government on that subject.

4. The Director of Social Defence, respondent no.2 herein, by order dated 23/07/2004 cancelled the registration of the petitioner Institution. Feeling aggrieved by the said order, the petitioner Institution preferred Appeal before respondent no.1, State Government. Respondent no.1 by order dated 08/10/2004, confirmed the order passed by respondent no.2 herein. Hence, this petition.

5. I have heard learned counsel for the parties. From the documents produced on record, it transpires that the order dated 23/07/2004 has been passed on the basis of a report received on 18/06/2004 and without affording any opportunity of hearing to the petitioner. The petitioner Institution was not issued with any Notice before passing the order, cancelling the registration of the petitioner Institution. Moreover, in the Appeal preferred by the petitioner, the respondent State Government has not considered the matter on merits.

6. Now, since the order dated 23/07/2004 at Annexure-B to the petition has been passed without issuing any Notice to the petitioner and without giving any opportunity of hearing to the petitioner, on this ground itself, the impugned order is required to be quashed and set aside.

7. For the foregoing reasons, the petition is allowed. The order dated 23/07/2004 passed by the Director of Social Defence, respondent no.2 herein and the order dated 08/10/2004 passed in Appeal by the State Government, confirming the order passed by respondent no.2 herein, are quashed and set aside. The respondent

authority is directed to consider the case of the petitioner Institution, after issuing Notice to the petitioner and after giving opportunity of hearing to the petitioner. It is made clear that this Court has not considered the matter on merits, inasmuch as any observations made by this Court will prejudicially affect the rights and contentions of either sides. Rule is made absolute accordingly with no order as to costs. Direct service permitted.

(K. S. Jhaveri, J.)

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